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## SOCIAL SOLIDARITY AND THE POWER OF CONTRACT

Kenneth Veitch<sup>1</sup>

### ***Abstract***

This article explores what contracts in the field of social policy can reveal about the forms of social solidarity that exist today. Taking workfare as its point of departure, the aim is to shed light on what these “social policy contracts” can tell us about the nature of social cohesion in contemporary Western societies. Drawing on Emile Durkheim’s typology of social solidarity in *The Division of Labour in Society*, and his later notion of individualism, it is argued that today’s social policy contracts disclose, simultaneously, elements of mechanical and organic social solidarity. As such, these contracts can be thought to function in both punitive *and* restitutive ways. It is argued that the exclusionary and inclusive features of social policy contracts, and their corresponding focus on the classification of parts of the population and individualism, act as important sources of contemporary social solidarity.

The second part of the article considers empirical evidence regarding the success of workfare programmes in various countries. This evidence highlights the important role that a number of

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structural factors play in the degree to which these programmes can be deemed to be successful. Reflecting on this, it is argued that the moralistic nature of the welfare contract, and the social cohesion to which this can be thought to be directed, obscures these deeper structural issues, thereby leaving in place the conditions that ensure the ongoing production of the type of misery and indignity characteristic of our post-Keynesian world. In that sense, it is contended that contract has a de-politicising effect in the field of social policy.

## ***Introduction***

A country is at its best when the bonds between people are strong and when the sense of national purpose is clear. Today the challenges facing Britain are immense. Our economy is overwhelmed by debt, our social fabric is frayed and our political system has betrayed the people. But these problems can be overcome if we pull together and work together. If we remember that we are all in this together.<sup>2</sup>

In a recent article, Gerard Delanty argues that there is an ‘emerging crisis of solidarity’ within Europe.<sup>3</sup> While this concerns the question of peoplehood, and is most clearly expressed in the form of ‘increased levels of anxiety around migration in European countries’, its roots, according to Delanty, can be traced to changes in the socio-economic constitution of Europe and its nation states. Referring to the work of several sociologists, including that of Richard Sennett and Jock Young, Delanty charts a variety of social and economic transformations – including in work, the family, and pensions – that have contributed to the weakening of previously solid bases of solidarity within Europe, including status and class. Lacking any sense of a collective identity at the European level, the result is a crisis of solidarity that, in turn, produces a ‘fear of others’, most prominently of migrants and members of ethnic communities. For Delanty, the way forward must involve a reassertion of the commitment to the social justice

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<sup>2</sup> *Invitation to Join the Government of Britain: The Conservative Manifesto 2010* (2010).

<sup>3</sup> G. Delanty, ‘Fear of Others: Social Exclusion and the European Crisis of Solidarity’ (2008) 42 *Social Policy & Administration* 676.

and solidarity whose current absence produces the insecurities and anxieties that express themselves in the aforementioned fear of others.

Delanty is not alone. Others, too, have bemoaned what they see as the decline of solidarity in contemporary Europe. Zygmunt Bauman, for instance, upon whose work Delanty relies, argues that the emergence of what he (Bauman) calls 'the society of consumers' has been accompanied by a decline in the conditions necessary for the existence of solidarity today.<sup>4</sup>

With the rise to prominence of the cult of the consumer and the idea that consumers, rather than the state, should provide for their own care needs, there has been a simultaneous diminution in what the social state offers by way of welfare benefits to those requiring assistance. In Bauman's view, this decline in 'communally endorsed, collective insurance against individual misfortune' detrimentally affects solidarity as it removes one of its key sources. This type of insurance was designed to promote solidarity by creating the possibility of a society understood as 'a common good, shared, communally owned, and jointly cared for, thanks to the defence it provides against the twin horrors of *misery* and *indignity* ...'.<sup>5</sup>

This theme of a crisis of, or at least a steady decline in, solidarity in contemporary Europe that appears in the social scientific literature, raises some important questions: Does this mean that there is no solidarity to speak of today? Is the only way to restore solidarity, if indeed that is achievable, to seek a return to the Keynesian era with its emphasis on full employment and strong social protection through a comprehensive welfare state?<sup>6</sup> If it is not, then what might

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<sup>4</sup> Z. Bauman, *Does Ethics Have a Chance in a World of Consumers?* (2008), Ch. 3.

<sup>5</sup> *Id.* at 140. Emphasis in original.

<sup>6</sup> For this link between solidarity and Keynesianism, see, amongst many examples, D. Harvey, *A Brief History of Neoliberalism* (2005), Chs. 1 & 3.

constitute alternative sources of solidarity in a post-Keynesian world? These are big questions, and it is not the purpose of this article to address them in any detail, if at all. Rather, the objective here is to question the assumption that there exists a general crisis of solidarity in what will loosely be referred to as contemporary Western states. Or, to be more precise, while the foregoing analysis may be correct in identifying a crisis of solidarity insofar as the traditional sources of solidarity are in the process of disintegrating, this does not mean that alternative sources of solidarity are not emerging to take their place. It is with these possible alternative sources of solidarity that this article is concerned.

The article takes the prominent role of contract within the field of social policy today as its point of departure. Contract has become a key mechanism through which social policies, including the traditional assistance offered to citizens via the welfare state, are implemented. These contracts between the state (or one of its representative institutions) and its citizens place duties upon the latter, whether that be actively to seek employment, engage in training and educational programmes, or behave in a manner complying with prevailing social norms. It is only on the basis of undertaking such duties satisfactorily that citizens will continue to reap the benefits of the social, or welfare, state. As such, and unlike the social rights of the post-WWII political settlement identified by T.H. Marshall,<sup>7</sup> these contracts point not to unconditional entitlements of access to the benefits of the welfare state, but to a conditional system, in which such access may be denied for failure to comply with the state's stipulations. These social policy contracts, as they will be referred to here, provide a useful lens through which to analyse contemporary forms of social solidarity. This is because these contracts act as

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<sup>7</sup> T.H. Marshall, 'Citizenship and Social Class' in T.H. Marshall and T. Bottomore, *Citizenship and Social Class* (1992).

an integral component of today's welfare state – that part of the state whose steady retrenchment is frequently identified in the social science literature as being a key contributory factor in the aforementioned crisis of solidarity. In other words, a focus on these contracts will allow us to chart more clearly the transformation in the sources of solidarity within an institution traditionally defined by its solidarity-producing properties.

Largely through an analysis of one such contract – the workfare contract<sup>8</sup> – it will be argued that it is possible to identify two forms of social solidarity or social cohesion. In order to conceptualise these, the article will draw upon some of Émile Durkheim's work – both his typology of social solidarity in *The Division of Labour in Society*<sup>9</sup> and his later work on the notion of individualism. It will be suggested that, despite existing within social and economic conditions markedly different to those by reference to which Durkheim developed his analysis of social solidarity, today's workfare contract points to the existence of two forms of social solidarity that have much in common with Durkheim's mechanical and organic social solidarity. More specifically, this contract contains within it both punitive and restitutive elements, measures designed both to exclude and include those members of the population in need of assistance. In turn, these exclusionary and inclusive measures assist in producing social solidarity. It is argued, therefore, that the workfare contract reveals something important about the nature and sources of contemporary social solidarity or cohesion in social and economic conditions different to those which Delanty and Bauman describe as being the traditional breeding ground and host for solidarity. Consequently, it is not so much that there exists a crisis

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<sup>8</sup> Although reference will be made to other types of social policy contract too.

<sup>9</sup> E. Durkheim, *The Division of Labour in Society* (1984 [1893]).

of solidarity today – sources of solidarity can be pinpointed in the post-Keynesian era, and interestingly within one of the key institutions (the welfare state) whose steady withdrawal has been identified as contributing to the suggested crisis. Rather, the issue, it is claimed here, is to seek to understand the forms that today's solidarity takes and how these particular forms of social cohesion assist in maintaining, and providing obstacles to the questioning and contestation of, the conditions necessary for, *inter alia*, ongoing poverty, hatred of others, insecure and poorly paid employment, and the misery and indignity Bauman speaks of. In other words, it is necessary not only to identify the possible forms and sources of social solidarity today, but also to analyse critically the ways in which these are involved in sustaining the types of human misery that exist in today's post-Keynesian world.

### ***Contract, Workfare and Social Policy***

Let us consider an example first. For some time now, many developed Western countries have managed the issue of unemployment through the policy of workfare. Workfare, or labour activation, as it is also known, is a social policy of conditional welfare. In order to continue receiving unemployment benefits, welfare recipients must undertake certain tasks which are designed to (re-)engage them in the world of work. Should they fail to undertake the stipulated tasks, their benefits may be reduced and, ultimately, withdrawn. Contract is the mechanism through which workfare operates. In the UK, for example, this contract takes the form of the Jobseekers' Agreement. A creation of the Jobseekers Act 1995, this Agreement altered the

conditions under which the unemployed would be entitled to receive welfare benefits.<sup>10</sup> Unlike the previous arrangements, whereby unemployed individuals would be entitled to benefits based either on their past record of national insurance contributions or immediate need, the 1995 Act makes the receipt, and continuation, of Jobseeker's Allowance conditional upon, *inter alia*, the signing of a Jobseekers' Agreement that remains in force.<sup>11</sup> Amongst other things, this Agreement must detail what type of work is to be sought and what steps are to be taken in looking for work and in improving chances of finding work. Various sanctions flow from a welfare recipient's refusal to take up employment or a decision to terminate work without showing good cause.<sup>12</sup> Adopted enthusiastically by New Labour on their election in 1997, these legislative arrangements were complemented by this Government's implementation of various 'New Deal' programmes. The effect of these programmes was to extend the ambit of workfare to cover a variety of sectors of the population (including the disabled, lone parents, and young people). Charting the development of the New Deal agenda in New Labour's 2008 proposals on welfare reform, the then Secretary of State for Work and Pensions, James Purnell, noted that this had occurred in three stages – the deepening of the obligation to work; the widening of the obligation to work; and, in the 2008 reforms, the objective that 'no one should be left behind'

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<sup>10</sup> In the US, workfare was introduced by the Clinton administration. See the Personal Responsibility and Work Opportunity Reconciliation Act 1996. For an overview, and analysis, of workfare and labour activation programmes in the US and Western Europe, see J. Handler, *Social Citizenship and Workfare in the United States and Western Europe: The Paradox of Inclusion* (2004).

<sup>11</sup> Sections 1(2)(b), Jobseekers Act 1995. While section 1(2) also makes receipt of Jobseeker's Allowance dependent on being 'available for employment' and on 'actively seeking employment', these conditions have, in one guise or another, been features of unemployment legislation for many years. See J. Fulbrook, 'The Jobseekers Act 1995: Consolidation With a Sting of Contractual Compliance' (1995) 24 *Industrial Law Journal* 395.

<sup>12</sup> Tougher sanctions for refusing to participate in schemes designed to return the unemployed to work are contained in the Welfare Reform Act 2009. Section 1 of the 2009 Act, which inserts a new s.17A into the Jobseekers Act 1995, states that those on Jobseeker's Allowance who fail to comply with the requirement to participate in "work for your benefit" schemes will lose their allowance for between one and twenty-six weeks (see s.17A(6)).



(that is, the creation of ‘a welfare state where virtually everyone is either looking for work or preparing for work’).<sup>13</sup> The overriding objective was to get people back into work, as work, the Government said, was the surest means of escaping poverty. In terms of contributing to reducing the unemployment figures, New Labour’s policies were clearly a success. As the White Paper notes, the number of people in work during the summer of 2008 in the UK was 29.5 million – an all-time high. Moreover, the number of people claiming welfare benefits at this time was fewer than one million, a clear improvement on the 1992 figure, which was almost three million.

While the philosophy of reciprocity underlying workfare is by no means novel in the field of social welfare,<sup>14</sup> what is new is the deployment of contract as a means of practically implementing this philosophy, which, according to some, had failed to be respected for much of the twentieth century.<sup>15</sup> But why use contract as the mechanism through which to manage not only unemployment, but a variety of other issues falling within the field of social policy?<sup>16</sup> One reason is that the core principles associated with contract have symbolic power. In other words, they are principles that people can easily identify with and adopt as intuitively sound and worthy of support. These principles include the following: freedom of contract (that is, parties

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<sup>13</sup> Department for Work and Pensions’ White Paper, *Raising Expectations and Increasing Support: Reforming Welfare for the Future* Cm 7506 (2008), 7-8. The lengths to which the Labour Government went in ensuring that, as far as possible, ‘no one is left behind’ can be seen in s.2 of the Welfare Reform Act 2009, which obliges lone parents on income support and who have children aged three or above to undertake work-related activity as a condition of continued entitlement to the full amount of income support.

<sup>14</sup> In his 1942 report *Social Insurance and Allied Services* (1942), Sir William Beveridge set out a welfare policy based on reciprocity: ‘The correlative of the State’s undertaking to ensure adequate benefit for unavoidable interruption of earnings, however long, is enforcement of the citizen’s obligation to seek and accept all reasonable opportunities of work.’ (para. 130)

<sup>15</sup> See Department for Work and Pensions *Raising Expectations and Increasing Support*, op cit.

<sup>16</sup> Contract has been deployed in the UK to tackle issues of truancy, juvenile delinquency, and so-called anti-social behaviour.

are free to determine the nature of their contractual obligations); consent (in other words, parties voluntarily enter into agreements rather than being coerced to do so); and reciprocity or mutuality (that both parties benefit from the contract through the mutual exchange of acts or promises). These principles represent an idea of social relations as based on freely agreed bargains between two contracting parties of equal power – in the workfare context, between the state (or its representative, such as the Job Centre) and the individual in need of assistance. Moreover, they point to the empowerment of the contracting parties, as it is in their hands that decisions regarding the nature of their agreements lie. Theoretically, the parties are free to bargain and negotiate over the terms of their contracts, and the rights and obligations within these, with a view to ending up with an agreement that reflects their choices and wishes. The use of contract therefore facilitates the construction of a certain idea of social relations – an ideal scenario in which voluntary agreements are arrived at between parties of equal power.

The representation of workfare as a contract reflecting such principles has been criticised in the literature to such an extent that it is highly questionable whether the Jobseekers' Agreement, along with 'contracts' in other areas of social policy (such as acceptable behaviour contracts), is a contract at all. Peter Vincent-Jones, for instance, has argued that it is difficult to call this Agreement a contract as it complies poorly with a number of common contract norms, including reciprocity, consent, and choice. The latter, for example, is largely a myth as genuine options are frequently not offered in practice. Similarly, consent is more theoretical than real as welfare recipients have little alternative but to accept the terms of the Agreement.<sup>17</sup> As a

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<sup>17</sup> See P. Vincent-Jones, *The New Public Contracting: Regulation, Responsiveness, Relationality* (2006), Ch. 9, and P. Vincent-Jones, 'Contractual Governance: Institutional and Organizational Analysis' (2000) 20 *Oxford Journal of Legal Studies* 317. Further sceptical analysis of the workfare 'contract' along these lines can be found in M.

result, Vincent-Jones has noted the coercive, as opposed to voluntary, nature of the so-called contracts in the field of social policy.<sup>18</sup> Their imposition by the state for concrete policy ends dilutes the component of individual autonomous choice characteristic of freedom of contract.<sup>19</sup>

This has led Vincent-Jones to refer to the use of contract in the field of social policy, as in other areas of government, as ‘the rhetoric of contract’. It is this rhetorical understanding of contract that is, at least partially, relevant to the analysis to be conducted in this article. For, while there would seem to be little doubt that the Jobseekers’ Agreement is not a contract in the sense of amounting to a genuine agreement between the citizen and the state based on freedom of choice, reciprocity etc. (‘the rhetoric of contract’ here being read in a dismissive sense – ‘the Government is just pretending that this Agreement is a contract, whereas, really, it is not one’), as noted above the use of contract in the field of social policy has what might be called symbolic, or ideological, power. Even though social policy contracts may not technically be contracts, the utility of deploying contract as a tool of state power is that it assists in both reflecting and conditioning the manner in which social issues are conceptualised. In particular, and as several authors, including Vincent-Jones, have noted, it facilitates a focus on the individual as the key actor in the creation and remedying of social problems. It is the behaviour, empowerment, responsabilisation, and utility of individuals, rather than the macroeconomic policy of the Government of the day, for example, that have become the foci when thinking

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Freedland and D. King, ‘Contractual Governance and Illiberal Contracts: Some Problems of Contractualism as an Instrument of Behaviour Management by Agencies of Government’ (2003) 27 *Cambridge Journal of Economics* 465.

<sup>18</sup> See Vincent-Jones, *The New Public Contracting*, *ibid.*

<sup>19</sup> See D. Campbell, ‘Relational Contract and the Nature of Private Ordering: A Comment on Vincent-Jones’ (2007) 14 *Indiana Journal of Global Legal Studies* 279. In Campbell’s view, this ‘erosion of the individual dimension of contract’, together with the fact that social policy contracts disguise ‘the hierarchical coercion that is the identifying feature of state intervention’, mean that these ‘contracts’ are not contracts at all.

about the construction and resolution of social problems. Moreover, and as we shall see, the use of contract allows a concentration on individuals' obligations, and the consequences that flow from their breach. Whether or not these 'contracts' can be said to involve reciprocity, bargaining etc. and thus amount to proper contracts, their real purchase lies in the assumption that the citizens subject to them have made an agreement and that they have an obligation to stick to it. This symbolic power of contract points to an understanding of 'the rhetoric of contract' which is different to that of the 'this does not meet the threshold contract norms necessary for a contract' variety. For here, contract's rhetorical power resides in its ability to coincide with broader ideas and understandings of the nature of contemporary society. As John Harrington has written in another context: 'As rhetoric, in the classical sense, relevant arguments gain in force from the plausibility of the visions of society by which they are underpinned.'<sup>20</sup> Underpinning the conceptualisation of social issues and problems as contracts, it is suggested here, is a plausible 'vision of [contemporary] society' – one defined, *inter alia*, by the importance of individual will and responsibility; the unacceptability of relying on the state to solve your problems; sticking by your agreements by undertaking your obligations; and individual empowerment. *Contract* within the field of social policy thus gains its force not from its compliance with standard contract norms – as most authors note, it is highly questionable whether social policy contracts are contracts in this sense – but from its ability to resonate with, and shore up, a powerful 'moral' vision of contemporary society, one which, as we shall see, succeeds in masking from view deeper structural issues. This is the power of contract to which

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<sup>20</sup> J. Harrington, 'Visions of Utopia: Markets, Medicine and the National Health Service' (2009) 29 *Legal Studies* 372, at 377. Reference omitted.

the title of this article refers. With this in mind, let us now turn to consider what the workfare contract might reveal about contemporary forms of social solidarity.

### ***The Workfare Contract and the Foundations of Social Solidarity***

The types of principles described in the previous section and the image of social relations to which they give rise have been affirmed and supported in some of the literature on the changing nature of social policy and the welfare state in contemporary Western societies. For example, Pierre Rosanvallon has embraced the use of contract in this sphere on the basis that it promotes the empowerment of individuals using the welfare state by affording them a right not only to subsistence but to what he calls 'social usefulness' – not just the right to live but 'the right to live in society.'<sup>21</sup> These contracts, with their mutual set of responsibilities (on the individual and the state), he argues, point to a notion of the individual as 'an autonomous, responsible person, capable of making commitments and honouring them.' And it is through the recognition of this type of person and the obligations he or she commits to undertake that the individual is re-socialised and, as a result, society is constructed and reaffirmed. Translated into the context of unemployment, this means that workfare programmes empower recipients of state welfare by placing in their hands the responsibility to take ownership of their unemployment by actively adopting measures to (re-)integrate themselves into the labour market and thus society. The workfare contract founds or constitutes a particular form of society – what Rosanvallon calls 'the inclusive society'.

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<sup>21</sup> P. Rosanvallon, *The New Social Question: Rethinking the Welfare State* (2000), at 88.

What is interesting about Rosanvallon's analysis is the relationship he identifies between contract, social policy, and the reaffirmation of society (the construction of social bonds). In his view, the benefit of introducing contract into the field of social policy lies not only in re-integrating the particular individual into society and emphasising to him or her the importance of responsibility and honouring commitments, but in the reaffirmation of society which these two factors facilitate. Whereas a welfare state based on collective insurance merely provides individuals with the social right to access the means of subsistence, the corresponding right of today's welfare state exceeds this to incorporate 'a moral imperative' too – the right to be a socially useful member of society. As opposed to the right to subsistence, which Rosanvallon equates to passivity, the latter right is bound up with activity and the notion of active citizenship. In his view, this type of citizenship, and its corresponding right to social usefulness, forms the basis of a new type of contemporary solidarity. It results in the excluded (re-)engaging or participating in society and converts the welfare recipients of the system of collective insurance into citizens.

One of the consequences of Rosanvallon's argument is that it is by means of a focus on the individual that today's social solidarity is likely to come about. The source of social solidarity is, in a sense, the individual. No longer is it class or status that define the source of social solidarity; it is not what Rosanvallon calls 'general populations' that are the target of the welfare state. Rather, it is the specific individual in need of help, together with his or her particular circumstances, needs, and behaviour that forms the object of concern. As Rosanvallon notes of the French RMI (minimum subsistence allowance): 'The route of inclusion is adapted to the needs of the person and to the possibilities of inclusion, and depends on the

unique situation of each beneficiary ... [T]he allocation of the RMI is subject to a supervision of behaviour.’<sup>22</sup> And the obligations to be undertaken by the unemployed as part of the workfare contract are not to be seen as curbing individual freedom, but as a means of ‘constructing society’. These obligations are the source of social cohesion. The result is ‘a contractual individualism combining respect for the individual with the reconstruction of the social bond.’<sup>23</sup>

Rosanvallon is not alone in his analysis of the changing nature and purpose of today’s social state. For instance, by reference to some of Michel Foucault’s later work, Jacques Donzelot charts a shift from the welfare to the social investment state.<sup>24</sup> Unlike the traditional welfare state, which sought to compensate for the injustices produced by the operation of markets, the social investment state is designed to ensure that public funds are invested in training and educational programmes, like those associated with workfare, whose purpose is to produce individuals with the ability to enter and compete within these markets, and who, thereafter, will no longer require assistance from the state. In Donzelot’s words: ‘In short, social policy is no longer a means for countering the economic, but a means for sustaining the logic of competition.’<sup>25</sup> Another way in which the social investment state can further this purpose is to ensure that funds invested in social services such as health are what Donzelot calls ‘profitable’ – that is, rather than being used to fix the effects of ill health, for example, these funds must be directed towards preventative measures that will reduce the likelihood of disease occurring in the first place. Cumulatively, Donzelot argues that the social policy of the social investment

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<sup>22</sup> Rosanvallon, op cit., at 83.

<sup>23</sup> Ibid., at 92. Emphasis in original.

<sup>24</sup> J. Donzelot, ‘Michel Foucault and Liberal Intelligence’ (2008) 37 *Economy and Society* 115. Foucault’s analysis can be found in M. Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-79* (trans. G Burchell) (2008).

<sup>25</sup> Donzelot, ibid.

state is defined by its emphasis on creating equal opportunities for all to participate in the market rather than, as was the case with the traditional welfare state, on the reduction of social inequalities which only considers income. As with Rosanvallon's analysis, the underlying rationale of the social investment state is one of inclusion. The objective of providing (or investing) public funds is to ensure that individuals who have been unable to participate in the competitive market find their way back into it as swiftly as possible. Moreover, it is a social policy geared towards activity rather than passivity. Of Foucault's analysis, Donzelot notes that it demonstrates 'how neo-liberalism calls for a completely different compromise with the idea of social justice than the one represented by the Welfare State in relation to classical liberalism. Or rather, it enables us to see how in order to retain its resources and effectiveness this compromise calls for revision and adaptation rather than for a tooth and nail defence of it as it is.'<sup>26</sup>

The foregoing analyses point to both the changing nature and purposes of the welfare state, and the central role that contract plays in a major aspect of today's social policy. Specifically, they stress the emphasis on the need to invest public resources in individuals who act responsibly by actively striving to re-enter society and who, when they do so, will become useful, autonomous and self-reliant members of society who are unlikely to require access to public funds or to the programmes funded by the state in the future. In these analyses, contract is very much a component of what might be called the assimilative state – a state whose social policy is designed to include and (re-)integrate those individuals currently outside of the

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<sup>26</sup> Ibid. at 117.



boundaries of “normal” life.<sup>27</sup> And, at least for Rosanvallon, it is this inclusive approach, revolving around individuals and their particular biographies and needs, that offers the best chance of establishing solidarity through social policy today.

This vision of the inclusive society does not, however, constitute the sole foundation or rationale advanced for the workfare contract. Rather, this contract contains an exclusionary element too, that provides for the possible reduction and withdrawal of the types of social benefits associated with the welfare state. Thus, as we saw earlier, if you do not sign the Jobseekers’ Agreement or fail to comply with the obligations within it, your welfare benefits will be reduced, and ultimately, possibly withdrawn for a period of up to 26 weeks.<sup>28</sup> This threatened consequence would appear to be irreconcilable with Rosanvallon’s analysis of the workfare contract, which interpreted this as a vehicle of the unemployed individual’s re-socialisation and, through this, of the reaffirmation of society. With its rights to ‘social usefulness’ and ‘to live in society’, the new welfare state (or social investment state) is designed with the objective of giving rise to ‘the inclusive society’, which extends far beyond the basic right to subsistence of the traditional welfare state, based as it was on collective insurance. Rather, the threat contained in the workfare contract would seem to point in the opposite direction – towards an exclusionary society in which the de-socialisation of the unemployed is

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<sup>27</sup> The notion of ‘the assimilative state’ has been used by Jock Young in the context of his writing on the transition from inclusive to what he calls ‘exclusive’ society. See J. Young, ‘From Inclusive to Exclusive Society: Nightmares in the European Dream’, in V. Ruggiero, N. South and I. Taylor (eds.), *The New European Criminology: Crime and Social Order in Europe* (1998), Ch. 4. Unlike Young, who argues that the assimilative state was one of the core ‘premises of modernism’ (i.e. that it was an integral feature of the traditional welfare state from which we have departed) which no longer captures contemporary social relations, the analyses of Rosanvallon and Donzelot suggest that this ‘state’ is very much alive and well today.

<sup>28</sup> s.17A(6), Jobseekers Act 1995. The UK Conservative Party’s policy is tougher still, with those refusing to participate in their proposed Work Programme ‘los[ing] the right to claim out-of-work benefits until they do, while people who refuse to accept reasonable job offers could forfeit their benefits for up to three years.’ *Invitation to Join the Government of Britain*, op cit. at 16.

countenanced and specifically legislated for. On Rosanvallon's analysis, this scenario would not be germane to the production of solidarity in the new welfare state, as it would fail to reintegrate the unemployed and, thus, to reaffirm society.

But is this so? In other words, are these inclusive and exclusionary aspects of the workfare contract necessarily irreconcilable? If they are, can this irreconcilability be traced to the question of solidarity, in the sense that the inclusive society is associated with the presence of solidarity while the exclusionary society is not? The purpose of the remainder of this article is to offer negative responses to these questions. Before developing the argument further, though, it is necessary to discuss in a bit more detail the nature of this exclusionary component of the workfare contract and what it reveals about the function of today's welfare state.

In his recent book, *Punishing the Poor*,<sup>29</sup> Loïc Wacquant advances a thesis of how the remarkable rise in punitive responses of recent years (especially in the US, but increasingly within Europe and Latin America too) is a key component of the implementation of neo-liberalism. He argues that the re-emergence of the penal state today is not a response to criminal, but to social, insecurity. Focusing on the dramatic rise in prison populations in some Western countries and the policy of workfare, Wacquant traces what he takes to be these punitive measures back to the underlying philosophies and practices of neo-liberalism. These measures, he says, are core features of the neo-liberal state. According to Wacquant, the economic deregulation and welfare retrenchment that accompany the implementation of neo-liberal policies have resulted in high levels of social insecurity and class anxiety. For those at the

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<sup>29</sup> L. Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (2009).

bottom of the socio-economic hierarchy, this social insecurity, which often expresses itself in petty crime and social disorder, is dealt with by the penal arm of the state. This punitive response, however, also works as a way of managing the social insecurity increasingly experienced by the middle classes as governments succeed in converting the middle class disenchantment produced by the state's withdrawal on the social and economic fronts into impatience with the social and moral disorder perceived to be the way of life of petty criminals, single mothers, welfare recipients and other "irresponsible" groups. According to Wacquant, this punitive mode of governing social insecurity therefore lends much needed legitimacy to politicians, as it allows them to claim that they are working to maintain citizens' physical security or safety while simultaneously withdrawing the types of long-standing social safety nets traditionally associated with the welfare state. Meanwhile:

[F]or the upper class as well as the society as a whole, the endless and boundless activism of the penal institution serves the symbolic mission of reaffirming the authority of the state and the newfound will of political elites to emphasize and enforce the sacred border between commendable citizens and deviant categories, the "deserving" and the "undeserving" poor, those who merit being salvaged and "inserted" (through the mix of sanctions and incentives) into the circuit of unstable wage labor and those who must henceforth be durably blacklisted and banished.<sup>30</sup>

Unlike Rosanvallon, for Wacquant workfare is a punitive measure that is implemented by governments as a way of reconciling the unemployed to the precarious and de-regulated labour market that is a feature of the neo-liberal era. Or, to put it another way, it represents a punitive inclusion into a labour market increasingly shorn of its social protections and benefits. But it is also clear from the earlier discussion in this article regarding the nature of workfare that the workfare contract incorporates an exclusionary element. The failure to abide by the terms of the Jobseekers' Agreement will result in a reduction in the amount of Jobseeker's Allowance,

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<sup>30</sup> Ibid., at xvii.

and, should this persist, ultimately its withdrawal from the unemployed individual. It is suggested that the existence of this punitive exclusion, whereby the workfare contract entertains the prospect of the de-socialisation of citizens by way of the deprivation of material assistance, also maps onto the types of Manichaeistic categories identified by Wacquant in the preceding quotation. Those who do not undertake their obligation to work or participate in work-related activity or training, will, like those in the previous system who were deemed to be quite content to live a life on benefits, no doubt be categorised as, *inter alia*, lazy, work-shy, shirking their responsibilities, and benefit fraudsters. The difference is that those who do not comply with this obligation are now effectively ejected from the realm of the social – ‘banished’, to use Wacquant’s phrase. The possibility of this ejection has important implications; for the ejectees to be sure, but also, it is suggested here, as a source of social solidarity or social cohesion. To implement the sanction of withdrawing material resources from citizens reaffirms society (in Rosanvallon’s phrase). De-socialisation founds society. This exclusion not only reinforces the prevailing consensus around those deemed to be deserving and those who are not; it also ensures the perpetuation of a system that measures the strength of social cohesion by the extent to which certain core moral values or norms are upheld. These values or norms, it is suggested here, include respect, self-discipline, the work ethic, self-dependency rather than dependency on the state, and functioning as a useful, as opposed to useless, member of society. Thus, the punishment of those who fail to live up to such values or norms has the effect of re-emphasising these and helping to shore up the social solidarity to which they give rise. More than this, it demonstrates the vital role that stigma plays as a

contemporary source of social solidarity or cohesion.<sup>31</sup> For the exclusionary element of the workfare contract feeds into a populist, morally loaded discourse regarding those who will not, or cannot, work. More often than not, this results in a process in which the failure to participate in work becomes associated, or synonymous, with particular groups or populations which are then often lumped together under generic descriptions such as 'useless' or 'a waste of space'. Crucially, though, those who are punished for their failure to participate, are not entirely removed or excluded from society (for instance, by being imprisoned). While deprived of the resources necessary for their socialisation, they remain within the space of society and are thus still available as an outlet for the sustenance of the types of moralising discourses and categorisations upon which today's social cohesion, at least in part, depends.

The exclusionary component of workfare contracts, with its tendency to lead to the categorisation of parts of the population, therefore suggests that Rosanvallon's depiction of workfare as a policy focussed solely on individuals and their particular circumstances, does not tell the full story. Rather, it needs to be complemented by an acknowledgement that the grouping or classification of some parts of society forms an integral dimension of the workfare contract, and the social policy contract more generally.<sup>32</sup> Thus, at the very time the middle classes Wacquant speaks of are experiencing insecurity about their status and the possibility of its transmission to their offspring, the classification of others acts as a means of managing this

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<sup>31</sup> For more on the contemporary relationship between punishment and stigma, see Wacquant, op cit.

<sup>32</sup> In the context of workfare, this process has been facilitated formally by the previous Labour Government's recent legislation on welfare (the Welfare Reform Act 2009), which extends workfare explicitly to lone mothers with children aged three or above, and to those on incapacity benefit deemed fit to work. Like others, the failure of those groups to participate in workfare schemes will lead to a reduction in, or withdrawal of, their welfare benefits. More generally, one need only think of anti-social behavior (also the subject of social policy contracts) and its association in the public imagination with the 'hoodie' or the 'chav' – 'dangerous' young men considered to have nothing better to do than to make nuisances of themselves by disrupting the flow of civilised life.

insecurity. Thus, the firm treatment of single mothers, suspected benefit fraudsters (including those on incapacity benefit), and other 'deviant categories', via the welfare state and criminal justice system becomes the mechanism through which the status insecurity of the middle classes is mollified, if not solved. Indeed, as Bauman persuasively argues in his discussion of the term 'underclass', the tendency today to lump together a variety of different populations – *inter alia*, illegal immigrants, drug addicts, and single mothers – into one stigmatised class of poor people is, in itself, 'a classificatory decision':

Plunging them all into one category is a *classificatory decision*, not the verdict of facts; condensing them into one entity, charging them all, collectively, with uselessness and with harbouring awesome dangers to the rest of society, is an exercise in *value-choice* and *evaluation*, not a description ... In reality, 'single mother' and an 'underclass woman' are *not* the same creature. It takes a great deal of effort (though little thought) to make the first into the second.<sup>33</sup>

This class of the 'useless' and 'dangerous' is not a natural phenomenon, but a necessary construction; one designed to serve the purposes of those doing the constructing. In the argument presented in this article, it serves the need of social solidarity or cohesion. The identification and classification of specific target groups in the context of welfare feeds into, and reinforces, populist notions of those groups, and the idea that it is morally disingenuous to get something for nothing from the state. The emphasis placed upon classification thereby offers up an invaluable source of social solidarity at a time when the unstable nature of work for many renders employment a tentative foundation of social cohesion. The classification, or categorisation, of others by the middle classes reaffirms bonds amongst those concerned about the insecurity of their status.

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<sup>33</sup> Z. Bauman, *Work, Consumerism and the New Poor* (2<sup>nd</sup> Edition) (2005), at 73. Emphasis in original.

The workfare contract comprises inclusive and exclusionary elements, both of which constitute important sources of contemporary social solidarity or social cohesion. As such, inherent in this contract one detects a dual foundation for the production of social bonds and, to use Rosanvallon's phrase, the reaffirmation of society. The inclusive element points not only to the importance of work as a way of (re-)socialising those in receipt of welfare benefits, but crucially, to the centrality of the individual to this process. It is with the individual's specific needs and biography, together with the objective of producing autonomous, responsible, and self-disciplined citizens, that the workfare contract is concerned. And it is this 'contractual individualism' that acts as a key source of social solidarity today. On the other hand, and simultaneously, the bonds of society are strengthened through the possibility of excluding those who fail to undertake the obligations contained in the workfare contract. The de-socialisation that flows from this exclusion paradoxically offers up a further source of reaffirming society, not least because of the tendency to classify those individuals into a larger, amorphous grouping of, to use Bauman's term, the useless. Such populist characterisations play a crucial role in reaffirming and strengthening the social bonds amongst respectable and upstanding citizens. The purpose of the following section is to reflect on how we might conceptualise this dual foundation of social solidarity inherent in today's workfare contract. What, if anything, can this presence of the inclusive and the exclusionary tell us about the forms of social solidarity expressed through social policy today? Or, to put it another way, what conceptions of modes of integration within contemporary society are represented through the mechanism of both the workfare contract and social policy contracts more generally?

### ***Durkheim and Social Solidarity***

In order to answer these questions, it is possible to draw on Emile Durkheim's characterisations of social solidarity in *The Division of Labour in Society*.<sup>34</sup> While his thesis is well known, it is necessary to identify those key parts of it which are relevant to the argument to be pursued here.<sup>35</sup> For Durkheim, social solidarity meant the way in which societies were integrated or given cohesion. He argued that social solidarity had moral foundations – social solidarity gave expression to the underlying morality existing within identifiable historical communities.<sup>36</sup> Moreover, he suggested that in order to determine the type of social solidarity, and thus morality, existing at any one time, one could turn to the law, as law expressed society's morality. Indeed, owing to the impossibility of measuring the moral phenomenon of social solidarity, it was necessary to have recourse to a symbolic entity such as law to gain insight into the extant forms of social solidarity. Famously, Durkheim divided his conceptions of social solidarity into what he called mechanical and organic social solidarity. Mechanical social solidarity, which was dominant in primitive societies, exists where there are strong collective beliefs or sentiments within a society. This form of social solidarity is accompanied by what he called 'repressive law' – that is, law that punishes acts transgressing the collective consciousness (*conscience collective*). This punishment is designed to reaffirm the collective consciousness, thereby further integrating the community: '[P]unishment ... does not serve, or serves only very incidentally, to correct the guilty person or to scare off any possible imitators

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<sup>34</sup> E. Durkheim, *The Division of Labour in Society* (1984 [1893]).

<sup>35</sup> Durkheim's theses regarding social solidarity have been the subject of critical commentary. See, for example, A. Hunt, *The Sociological Movement in Law* (1978), Ch. 4, and A. Giddens, *Durkheim* (1986), Ch. 6. It is not the purpose of this article to review this critical commentary. Rather, whilst acknowledging the strength of some of this critique, it is contended that some key aspects of Durkheim's theses are helpful in thinking through the relationship between social policy contracts and social solidarity.

<sup>36</sup> The centrality of morality to Durkheim's work can be seen in the following statement: '[M]orality is the indispensable minimum, that which is strictly necessary, the daily bread without which societies cannot live.' Durkheim, *op cit.* at 13.



... Its real function is to maintain inviolate the cohesion of society by sustaining the common consciousness.<sup>37</sup> Moreover, in such societies, the individual is subsumed within the collective and indistinguishable from it: 'In societies where [mechanical] solidarity is highly developed the individual ... does not belong to himself; he is literally a thing at the disposal of society.'<sup>38</sup>

Organic social solidarity, on the other hand, is typical of societies with an advanced division of labour, where there is a plurality of beliefs and values. Nonetheless, different social groups depend on each other, and through the performance of their distinct functions, that is, through the division of labour, social solidarity is produced. In contrast to the expiatory nature of the sanction associated with repressive law, the sanctions of the restitutive law characteristic of societies in which organic solidarity predominates have the objective of 'putting back the clock so as to restore the past, so far as possible, to its normal state'.<sup>39</sup> As Cotterrell says, the purpose is 'to restore an upset balance in social relations and so facilitate social interaction'.<sup>40</sup> A further distinction between mechanical and organic social solidarity is the role played by the individual. Whereas, as noted, the individual was simply part of the collective in the former type, in the latter, individuals are viewed as being different from each other, with each of us 'ha[ving] a sphere of action that is peculiarly our own, and consequently a personality'.<sup>41</sup> And the degree of this 'free space' is directly proportionate to the degree of social solidarity that exists, so that more individual freedom results in a higher amount of social solidarity. In his later writings, Durkheim argued that the moral basis of social solidarity in modern societies revolved around

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<sup>37</sup> Ibid. at 62-63.

<sup>38</sup> Ibid. at 85.

<sup>39</sup> Ibid. at 68.

<sup>40</sup> R. Cotterrell, *Emile Durkheim: Law in a Moral Domain* (1999), at 32.

<sup>41</sup> Durkheim, op cit. at 85.

the individual. In particular, he developed the idea of individualism as the moral foundation of modern social solidarity. On the one hand, this idea stressed the need to respect the human dignity and freedom of all individuals – values that would produce reciprocal relations within modern society and result in its reaffirmation. On the other hand, it also pointed to the responsibility of individuals to both their fellow human beings and to the society which created the conditions for the individual to flourish. As Cotterrell summarises the moral basis of modern social solidarity to be found in Durkheim's later work:

Individualism teaches, for Durkheim, that all personal rights, freedoms, dignities and opportunities are given by social life itself. Hence the cult of the individual empowers individual human beings and guarantees their self-respect through its insistence that others respect them. But it also teaches them responsibility to each other and to the society that makes possible everything that enriches their lives.<sup>42</sup>

Durkheim's analysis of social solidarity is useful in helping us to think through the types of social solidarity expressed through today's welfare contract. In a general sense, this utility derives from Durkheim's focus on the moral basis of social solidarity. For the welfare contract can, at least in one sense, be interpreted as a 'moral' instrument, symbolising and giving expression to the moral foundations of social solidarity. Two instances of this can be highlighted. First, the welfare contract is in keeping with Durkheim's mechanical solidarity. This is because the sanction for breaching, or failing to enter, the contract is a punitive one, taking the form of a reduction in, or removal of, the public goods provided by the welfare state. This repressive sanction, which threatens individuals with de-socialisation, can have the effect of emphasising and asserting a collective set of beliefs or sentiments. It is suggested that these beliefs or sentiments revolve around the types of moral values or norms outlined earlier, including respect, self-discipline, the work ethic, and self-dependency rather than dependency on the

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<sup>42</sup> Cotterrell, op cit. at 114.

state. Failure to act in accordance with such values or norms not only brings detrimental consequences for the individuals involved; but through these consequences, the belief system defined by these values is emphasised and strengthened, thereby contributing to the maintenance of cohesion in contemporary society. For instance, the eviction from their council home of those individuals (and their families) who are found to have breached acceptable behaviour contracts by engaging in so-called anti-social or nuisance behaviour has the effect of reaffirming prevailing beliefs or sentiments about acceptable norms of behaviour. Here, 'the individual ... is literally a thing at the disposal of society.' Moreover, and in light of the discussion above, the tendency, whether formally or informally, for social policy contracts to crystallise around specific parts of the population, assists in this process of reasserting collective sentiments, thereby producing social cohesion. And while today's society lacks the type of close knit, neighbourly social relations characteristic of primitive societies, this does not necessarily prevent the existence of a *conscience collective* capable of being strengthened via the exclusion of those who fail to comply with the terms of social policy contracts. For while the close social relations that gave rise to the common consciousness of primitive societies may have all but disappeared today, their place has readily been taken by a populist media and politics that whip up hysteria about certain populations allegedly transgressing the types of values or norms set out above. This not only ensures the basis for a strong contemporary *conscience collective*, but dependable outlets for its almost daily reaffirmation. The combination of classifications and punitive measures constitutes a potent source of contemporary social solidarity. It is worth noting, however, that it is in the form of contract, that medium Durkheim associated with the

restoration of social relations, that today's punitive source of social solidarity within social policy is expressed.

Today's social policy contracts point, however, in the direction of a second moral foundation of contemporary social solidarity. This has more in keeping with Durkheim's modern social solidarity. One can detect in social policy contracts a conception of social solidarity based not only on the need to respect individuals and their autonomy and human dignity, but on the expectation that these individuals will discharge their responsibility to society by undertaking the obligations stipulated in the relevant contract (to seek work, behave themselves etc.). These contracts presuppose not the passive recipient of benefits, or indeed the passive citizen generally, but the active individual who, as we saw, Rosanvallon described as 'an autonomous, responsible person, capable of making commitments and honouring them.' These features are very much in line with those Durkheim identified in his notion of individualism – the moral basis he later advanced for the social solidarity typical of complex modern societies. In one sense, then, the social policy contract expresses an image of social solidarity as founded on the individual and his or her active reintegration into social life (re-socialisation). The objective here is not to punish but to mend broken social relations by 'facilitat[ing] social interaction' and restoring the status quo ante. And, like Durkheim, who identified contract law as one of the key components of the restitutive law that symbolised organic social solidarity, it is, once again, the medium of contract that today expresses the mending of social relations based on active citizenship. Thus, with regard to workfare, it is not simply work that gives rise to social cohesion, but a certain idea of the individual, as autonomous, self-disciplined etc. It is in these qualities, and their practical expression, that the seeds of the re-integration of the unemployed,

together with the consequent reaffirmation of society, are located. Those features – work and what might be called individualism – constitute the sources of that form of social solidarity pertaining to Rosanvallon's inclusive society.

While not detracting from the utility of Durkheim's analysis of organic social solidarity for an understanding of today's social policy contracts, the former does not perfectly fit the latter. Unlike Durkheim's thesis, the restitutive component of the social policy contract does not flow from the nature of the sanctions consequent upon its breach. Whereas Durkheim identified restitutive law with, for example, the payment of damages as a means of restoring the parties to their previous positions, it has already been noted how the sanctions for breach of social policy contracts take a punitive form. As such, the restitutive nature of these contracts does not relate to the breach, or failure to perform the terms, of these specific contracts. To what, then, does it correspond? To answer this, the social policy contract must be viewed as symbolic of a wider settlement or, we might say, contract. With respect to workfare, for instance, the restitutive element of the contracts associated with this lies in the objective of re-socialising the unemployed through work. This is the meaning to be ascribed to Durkheim's 'restoring the past, so far as possible, to its normal state'<sup>43</sup> in this context. It is in the mending of a more general social breakdown that restitution resides. And, as with Durkheim's later analysis of the roots of modern social solidarity, and Rosanvallon's inclusive society, it is individualism that forms the moral basis of that restitutive moment. Workfare schemes and programmes are set up by the state, to be sure. But, equally, it is through the individual – the active citizen – and the values associated with the individual, including autonomy, dignity, rights, self-discipline, and

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<sup>43</sup> Ibid. at 68.

effort that social bonds are to be repaired and society reaffirmed. In other words, while today's social policy contracts do not map squarely onto Durkheim's notion of organic solidarity, the underlying moral foundation of his later idea of modern social solidarity – individualism – finds its direct expression in these contracts as a key basis upon which the re-socialisation of the unemployed is meant to occur. To deploy Rosanvallon's phraseology, it is by means of contractual individualism that the reaffirmation of society is made possible.

Despite its development in the context of distinct historical periods, Durkheim's analysis of the forms of social solidarity and their modes of expression can reveal something about the relationship between social policy and social solidarity today. Specifically, it illustrates the exclusionary (repressive) and inclusive (restitutive) aspects of social solidarity. And while Durkheim acknowledged that both could co-exist within a particular society (e.g. industrial society), either the exclusionary or the inclusive form tended to dominate. In the present context, we are confronted with a phenomenon in which the exclusionary and inclusive co-exist. The social policy contract is synonymous not only with the restitutive role that Durkheim understood contract law to play in modern society (mending broken relationships). Rather, the social policy contract functions both restitutively and, at least potentially, repressively (its breach being punishable ultimately in the form of exclusion from access to the public goods provided by the state). Durkheim's analysis is also relevant insofar as he identifies social solidarity as having moral foundations. Again, his notions of individualism and the *conscience collective* are, it is argued, relevant to understanding the sources of social solidarity within contemporary social policy. The autonomous individual, whose rights and dignity demand respect and responsibilities to others and society require implementation, exists alongside an

increasingly populist collective belief system whose reaffirmation depends upon the possible punishment of those who flout the values associated with individualism. Moreover, the constructed status of those individuals – their lumping together in a category defined, *inter alia*, by what Bauman calls “uselessness” – also works to strengthen the *conscience collective*, and, in turn, contemporary social solidarity. It is possible, then, to say that today’s social policy contract symbolises elements of both the mechanical and organic social solidarities described by Durkheim, and his later reflections on the underlying moral basis of modern social solidarity.

### ***Contract, Social Solidarity and De-Politicisation***

The contention thus far has been that an analysis of the social policy contract, predominantly in the context of workfare, can help in understanding the forms of contemporary social solidarity. In this, the final, section of the article, the discussion turns to the relationship between today’s sources of social solidarity – both the populism of punishing and the individualism of the inclusive society – and the persistence of social suffering. Specifically, the objective is to demonstrate the masking properties of the social policy contract and, thus, of the forms of social solidarity which it expresses. What do they hide and leave unaddressed? And with what consequences? In order to concretise the discussion, reference will be made to that area of social policy that has formed the focal point so far – that is, unemployment and workfare.

As we saw earlier, Rosanvallon identified the workfare contract as an integral component of what he called the ‘inclusive society’, which is synonymous not merely with the ‘right to live’, but the ‘right to live in society’. This contract is designed to re-integrate individuals into society through work and, thereby, reaffirm society generally. To what extent does this philosophical

analysis reflect what goes in practice? Drawing on a number of empirical studies of workfare programmes in both the US and Europe, Handler provides an indication of the possible trajectories of unemployed persons who are subject to workfare or labour activation policies.<sup>44</sup>

In respect of the general nature of the employment market in the US, Handler notes that, despite the creation of more than 20 million jobs since 1990, there has been little increase in the real wages of less skilled and less educated workers. Compounded by the fact of the growing number of short-term jobs, the result is that these workers are failing to climb the economic ladder. Poverty thus remains a pressing problem: 'In 2000, 11.3% (31 million people) [in the US] were living below the official poverty line of \$17,603 for a family of four. Moreover, 13.8 million had incomes of less than one-half of the poverty line.'<sup>45</sup> Most of those who receive welfare benefits also work. However, even if they manage to leave welfare, the unstable, low-skilled nature of their employment often means that they need to return to the welfare system. Indeed, some welfare recipients often find it difficult to secure low-skilled work as employers seek out those who are educated and have a degree of work experience. Should they find employment, they can look forward to an average annual wage of between \$8,000-\$15,144 (2001 figures), with few, if any, benefits. Administrative pressures on those managing workfare programmes also have detrimental consequences for some on welfare as it is those who are deemed to be 'most promising' that are selected to benefit from the training and educational opportunities on offer.

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<sup>44</sup> J. Handler, 'Social Citizenship and Workfare in the US and Western Europe: From Status to Contract' (2003) 13 *Journal of European Social Policy* 229.

<sup>45</sup> *Ibid.* at 231.



Some of these findings are borne out by a recent comparative review of workfare programmes in the US, Canada and Australia, commissioned by the former UK Government's Department for Work and Pensions.<sup>46</sup> Amongst other things, the evidence noted in this review indicates that workfare in the form of unpaid work experience does little to increase the likelihood of securing employment, and indeed may reduce the chances of doing so. Only 5% of the participants in one programme – the Work Experience Programme in New York City – for example, ended up finding work. Involvement in another, Wisconsin Works (W-2), failed to result in sustained employment in unsubsidised work for the majority of participants. Additionally, in 1997 the incomes of about half of those leaving the programme fell below the poverty line. The tenor of these findings was replicated in evidence from the Ontario Works workfare programme in Canada. A survey conducted in 2001, found that only 56% of 804 former participants in the programme found work. Most of those that did were employed in short-term or low-paid jobs (30% were employed in temporary jobs, 30% in part-time work, and approximately one-third of the 56% who secured work earned less than 10\$ an hour – the measure of the 'working poor'), and some of them reported suffering severe economic hardship and job insecurity.

While Handler acknowledges that the empirical evidence of activation policies in Western European countries is not conclusive, and that there have been successes, he notes that such programmes pose risks to the most vulnerable populations. In France, for example, employment programmes resulting from the main activation scheme (the Revenue Minimum D'insertion – RMI) have the following consequence: 'Clients move from one placement to

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<sup>46</sup> Department for Work and Pensions, *A Comparative Review of Workfare Programmes in the United States, Canada and Australia* (2008).

another in ‘bad jobs’ – poorly paid with few prospects for permanent, regular jobs.<sup>[47]</sup> Most RMI leavers are dissatisfied with their jobs. Workers [those administering the programmes] concentrate on the most employable.’<sup>48</sup> Referring to a study by Finn and Blackmore of some youths on the New Deal for Young people in the UK, Handler reports how critical they were of Jobseeker’s Agreements, including their view that too many people were obliged to undertake ‘meaningless activities’. Like the US experience noted by Handler, Finn and Blackmore concluded that the core difficulty was that many of those who find work through activation programmes often become unemployed again – the so-called ‘revolving door’ syndrome. Similarly, the evidence in some Western European countries points to the fact that it is those who are ‘younger, better educated, and with fewer social problems’, together with those who have previously undertaken skilled work, that benefit from the best opportunities available through activation programmes.

What of the UK? Before considering some empirical evidence of the operation of workfare in the UK, it is crucial to outline the broader macro-economic picture, especially as regards the distribution of income and the changing nature of the labour market. The most recent report on disposable household income and income distribution shows that, since records began in 1961, Britain has never been as unequal a society in terms of income distribution as it is today.<sup>49</sup> In the three years after Labour’s election victory in 2005, the income of the poorest 20% fell in real terms by 2.6%, whereas that of those in the top 20% rose by 3.3%. In the same

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<sup>47</sup> On this point, see, also, D. Béland, ‘The Social Exclusion Discourse: Ideas and Policy Change’ (2007) 35 *Policy & Politics* 123, at 129-30.

<sup>48</sup> Handler, *op cit.* at 235. Reference omitted.

<sup>49</sup> Department for Work and Pensions, *Households Below Average Income: An Analysis of the Income Distribution 1994/95 – 2007/08* (2009).

period, an extra 300,000 working adults fell below the official poverty line, taking the total number to 11 million. These figures are compounded by other data on income distribution in the UK. Drawing on various reports (including those produced by the Institute for Fiscal Studies and the Institute of Directors), Polly Toynbee and David Walker note that the top 1% of earners receives 13% of all income, with the top 10% receiving 27.3%.<sup>50</sup> The bottom 10% of earners receives 2.6% of the whole. Apart from Switzerland, the UK has the highest level of income inequality in Europe. In the space of 20 years (1988-2008), the average chief executive of a FTSE company has gone from earning 17 times the UK average salary to earning 75.5 times it.

The nature of the labour market has also changed in recent years. In its report on vulnerable employment in the UK, the TUC Commission on Vulnerable Employment ('the Commission') notes that while, as we saw earlier, unemployment has fallen markedly over the last decade, this has occurred in the context of a changing economy.<sup>51</sup> Accompanying the shift from a 'manufacturing' to a 'service' based economy has been a rise in 'outsourcing' whereby workers are not directly employed by the businesses they work for, but by employment agencies who supply these businesses with labour. Falling outside of the Fixed Term Employees' (Prevention of Less Favourable Treatment) Regulations 2002, agency workers have not been afforded the protection offered to other temporary workers. Thus, while those working for agencies are protected by the Minimum Wage Act and are entitled to 20 days' paid leave annually, they

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<sup>50</sup> P. Toynbee and D. Walker, *Unjust Rewards: Exposing Greed and Inequality in Britain Today* (2008), quoting from a report by the Institute of Fiscal Studies, *Racing Away?: Income Inequality and the Evolution of High Incomes*, Briefing Notes BN76, 2008).

<sup>51</sup> TUC Commission on Vulnerable Employment, *Hard Work, Hidden Lives: The Short Report of the Commission on Vulnerable Employment* (2008).

have, for example, neither security nor guarantee of work.<sup>52</sup> Drawing on various reports, Green notes three consequences of temporary work for those engaged in it: 1) a lack of job security compared to other workers, resulting in low levels of job satisfaction; 2) less pay than permanent employees with similar skills; and, 3) fewer benefits, including pensions.<sup>53</sup> Importantly, the Commission discovered that it is increasingly likely for low paid workers who use Jobcentre Plus to be offered agency work.

As well as the increasing prevalence of low paid work, the Commission notes how the erosion of various forms of protection for workers from the 1980s onwards, such as collective agreements between employers and the unions, has contributed to the rise in vulnerable employment. This re-regulation of the labour market<sup>54</sup> was considered to be a necessary condition of the realisation of economic growth and prosperity, and while, according to the Commission, a variety of measures passed by New Labour stemmed the flow (e.g. working families tax credits), the OECD can still report that, save for the US, workers in the UK today are afforded the least protection in the developed world. Estimating the number of workers in the UK 'trapped in a continual round of low-paid and insecure work where mistreatment is the norm' to be around 2 million, the Commission concludes: 'In recent years those with secure jobs with responsible employers have made real gains, but vulnerable workers unable to assert

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<sup>52</sup> See F. Green, 'Temporary Work and Insecurity in Britain: A Problem Solved?' (2008) 88 *Social Indicators Research* 147, at 158. The Agency Workers Regulations 2010 have done nothing to change this aspect of agency employees' work.

<sup>53</sup> Ibid. at 151.

<sup>54</sup> As Standing points out, rather than the removal of traditional employee protections representing a de-regulation of the labour market (as frequently characterised in the academic literature), it reflects a 're-regulation, in favour of employers relative to workers, the reverse of what had occurred in the post-1945 era'. See G. Standing, 'Economic Insecurity and Global Casualisation: Threat or Promise?' (2008) 88 *Social Indicators Research* 15, at 19.

their rights have been left behind.’<sup>55</sup> Moreover, while the Commission applauds the emphasis the previous Government placed on employment as a way out of poverty, as things currently stand, for many a job simply amounts to a poor substitute for the indignity of welfare: ‘Government rightly emphasises the role of work in escaping poverty and social exclusion. The end of mass unemployment is a great social advance. But replacing the hopelessness of the dole queue with the misery of dead-end lives trapped in insecure, low-paid, low-skilled jobs should be just as much a target for progressive political action.’<sup>56</sup>

The latter point suggests the likely trajectory of those leaving welfare for employment. The same problems confront those subject to workfare in the UK. Reflecting on the findings of a series of local case studies of ‘inclusive, community-based approaches to accessing employment’ for a number of disadvantaged groups, Carpenter et al conclude that the main criticism made by those engaged in these workfare programmes was the poor quality of the work on offer in the labour market.<sup>57</sup> While respondents appreciated the assistance and support provided to them to apply for jobs and update skills, these tended to provide access to substandard employment. More generally, the authors note that (re-)entry into the labour market for those at the lower end of the socio-economic spectrum often means precarious employment. Moreover, paid work today is no guarantee of a life free from poverty, as evidenced by the fact that, in 2004-05, approximately half the number of adults and children in

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<sup>55</sup> TUC Commission on Vulnerable Employment, *Hard Work, Hidden Lives*, op cit., at 13. The Commission defines ‘vulnerable employment’ as, ‘precarious work that places people at risk of continuing poverty and injustice resulting from an imbalance of power in the employer-worker relationship’.

<sup>56</sup> Ibid. at 2.

<sup>57</sup> M. Carpenter, B. Freda and S. Speeden (eds.), *Beyond the Workfare State: Labour Markets, Equality and Human Rights* (2007).

poverty in the UK resided in households where at least one individual was employed.<sup>58</sup> Toynbee and Walker confirm these findings in respect of the previous Labour Government's New Deal workfare programmes.<sup>59</sup> They note that many New Deal jobs are low paid and, contrary to the previous Government's aspirational agenda, become the indefinite lot of those who enter them:

Getting a job was only the first step, said the chancellor, Gordon Brown. People should be helped to move upwards, to train, improve themselves and get promoted. But the vast majority are going nowhere. Armies of cleaners, carers, caterers, cashiers and clerical workers paid rock-bottom wages cannot all become supervisors and managers ... The ladder has limited capacity; most will stay more or less where they are; most will retire from the entry-level jobs they have worked at all their lives.<sup>60</sup>

One of the core implications of Carpenter et al's studies was the failure of current workfare social policies in the UK to address underlying structural inequalities, such as class, that affect people's employment trajectories after being on welfare.

The foregoing reports and empirical analyses assist in putting some flesh on the bones of Rosanvallon's 'inclusive society'. Importantly, they reveal a less rosy picture than that painted by his philosophical analysis, and point to key structural factors – such as class, poor education, and the low paid and precarious nature of the labour market – that impede the permanent and successful re-integration into society of many of those on workfare. What is secured through the assimilation characteristic of workfare is not necessarily an escape from poverty and the heightened possibility of de-socialisation that poverty engenders, but its entrenchment and ongoing production. The point here is that the workfare contract does not address the structural factors responsible for this state of affairs. Rather, it is what might loosely be termed

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<sup>58</sup> Ibid. at 169-70.

<sup>59</sup> Toynbee and Walker, op cit. Ch.9.

<sup>60</sup> Ibid. at 154. Emphasis added.

the ‘moral’ dimensions of unemployment and welfare – individualism and the classification of certain populations as useless, dangerous, etc. – and the social solidarity of which these are meant to act as sources, that have become most closely associated with contract in the context of social policy. This association pays great political dividends, lending much-needed legitimacy to governments seeking to justify their role in the light of having overseen the steady retrenchment of the welfare state (much like Wacquant’s point, noted earlier, about the role of punitive measures today). But contract has this political effect in a manner which, ironically, is de-politicising. In other words, the moralising aspects of the social policy contract, and the (socially) cohesive ends to which they are directed, succeed in obscuring the underlying conflicts over the nature of the types of structural factors, noted above, that play such a central role in determining the prospects of the state’s citizens. What kind of system produces the ‘revolving door’ syndrome and the precariousness that flows from this; why, in a system supposedly guided by equal opportunities for all, are those with greater qualifications more likely to be granted priority within workfare programmes? Answers to these questions demand the confrontation of issues and factors that the social policy contract is inadequately designed to address. For, rather than concerning ‘moral’ issues, they revolve around questions of, and conflicts over, *inter alia*, political economy, class, income inequality, education, and the bureaucratic compulsion to meet targets. But the particular power of contract here is not merely to obscure these questions and conflicts by converting them into ‘moral’ issues, but to prevent them even surfacing as questions and conflicts in need of airing and debate.<sup>61</sup> It is

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<sup>61</sup> For an argument along similar lines that views the focus on diversity in US politics and academia as succeeding in obscuring the economic inequality embedded in American society, see W. Benn Michaels, *The Trouble With Diversity: How We Came to Love Diversity and Ignore Inequality* (2006).

order and consensus, not conflict, with which this type of contract is bound up. The result is that, because debate about the underlying systemic issues all but vanishes from the public and political spheres – their terrain colonised by a moralising discourse of autonomous individuals, responsabilisation, and anti-social behaviour – the underlying structural factors proceed unhindered, their operation continuing to produce the kinds of detrimental consequences for some citizens detailed in the empirical material set out above. Contract therefore masks and subdues in the field of social policy, its de-politicising character having important political purchase whilst ensuring the unimpeded production of debilitating social costs.

## ***Conclusion***

In contrast to those who argue that we are currently experiencing a crisis of solidarity, this article has suggested that different forms of social solidarity are emerging today through that institution – the welfare state – most frequently cited as evidence of the so-called crisis. Durkheim’s typology of social solidarity in *The Division of Labour in Society*, and his later work on individualism, provides a useful resource for thinking through the nature of these different forms – especially their moral foundations. But while the emerging forms of social solidarity detectable via today’s social policy contracts may be different in nature to the “collective insurance” solidarity of the post-WWII welfare state, Durkheim’s work demonstrates that they are by no means novel. Indeed, from the analysis conducted in this article, they are reversionary, replicating sources of social solidarity to be found in earlier, sometimes much earlier, societies. The argument pursued here has not only been that it is necessary to understand the nature of the emerging forms of social solidarity today, but, through that



endeavour, to grasp better how these forms are bound up with the persistence of social suffering and the misery and indignity that Bauman identifies as key features of our post-Keynesian age.